PARLIAMENTARY DEBATES
HOUSE OF COMMONS

STANDING COMMITTEE E

OFFICIAL REPORT

MENTAL HEALTH BILL

THURSDAY, 16th APRIL, 1959

Sixteenth Sitting

CONTENTS

CLAUSES 127 to 146 agreed to, some with amendments.
Committee adjourned till Tuesday, 21st April, 1959, at half-past Ten o'clock.

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MENTAL HEALTH BILL

STANDING COMMITTEE E

OFFICIAL REPORT

Thursday, 16th April, 1959

[Mr. S. STOREY in the Chair]

Clause 127.—(ASSISTING PATIENTS TO ABSENT THEMSELVES WITHOUT LEAVE, ETC.)

10.30 a.m.

The Minister of Health (Mr. Derek Walker-Smith): I beg to move, in page 83, line 40, to leave out from "induces" to "shall" in line 17 on page 84 and to insert:

"or knowingly assists any other person—

(*a*) being liable to be detained in a hospital within the meaning of Part IV of this Act, or being subject to guardianship under this Act, to absent himself without leave; or

(*b*) being in legal custody by virtue of section one hundred and thirty-five of this Act, to escape from such custody."

With this Amendment go no fewer than four others: that is to say, those in page 84, lines 18, 23, 31 and 32. These are drafting Amendments. The Clause as drafted covers most, but not all, of the circumstances in which a patient may escape or absent himself. The object of the Amendments is to fill these minor gaps and to simplify the drafting of the Clause. This has been done by using expressions which will be drafted into the Bill as a result of the various Amendments.

Amendment agreed to.

Further Amendments made: In page 84, line 18, leave out from "who" to "or" in line 21 and insert:

"knowingly harbours a patient who is absent without leave or is otherwise at large and liable to be retaken under this Act."

In line 23, after "returned," insert:

"to the hospital or other place where he ought to be."—[*Mr. Walker-Smith.*]

Mr. Kenneth Robinson: I beg to move, in page 84, line 27, to leave out "six" and to insert "three."

It might be for the convenience of the Committee if we took at the same time my two succeeding Amendments in lines 27 and 30 since they concern the same point of halving the proposed penalties. The Minister and his advisers appear to me to have got into something of a rut when considering the penalties under the Bill. We seem to have reached almost a standard penalty for any offence. The only purpose of the Amendments is to try to introduce what I, at least, regard as a slight sense of proportion in these matters. I cannot think that assisting a patient to escape or absent himself without leave is in any way as heinous a crime as the other offences earlier in this Part of the Bill which carry precisely the same penalty as this one. Since I would have thought that this was a relatively less serious offence, I have tabled these Amendments, which would have the effect of halving the maximum penalties in each case. Although nobody wants to encourage people to assist patients to escape or absent themselves without leave, I hope that the Minister will agree that this is not as serious an offence as the ill-treatment of patients. A subsidiary effect of accepting the Amendments would be to highlight the importance of the other offences, which at the moment carry merely the same penalty as this offence.

Dr. Edith Summerskill: There is one point of which I would remind my hon. Friend the Member for St. Pancras, North (Mr. K. Robinson). Although, in looking at the Clause, one would think of a man being helped by another man to escape, will my hon. Friend bear in mind the mentally deficient girl who might be helped to escape and who, during the time she was away, might become pregnant? Therefore, I do not quite agree that the offence is not as serious as cruelty in a hospital. In the case of the woman mental defective, it could lead to most unfortunate consequences.

Mr. Robinson: I assure my right hon. Friend that I had thought of that case. My right hon. Friend has said that the mentally deficient girl, having been assisted to escape, might then become pregnant. All I am pointing out is that the act of assisting her to escape, which might have those consequences, carries the same penalty as the act which would have those consequences.

Mr. Walker-Smith: These brief but useful exchanges illustrate how difficult it is to make these evaluations. One cannot exclude the social consequences

[MR. WALKER-SMITH.]
that follow upon an act, at least in terms of penology, part of which is the deterrent effect which it has. The offences with which we are dealing in the Clause are those of inducing or assisting a patient who is liable to detention to absent himself without leave, or, similarly, a person who is under custody in the course of conveyance; and also of harbouring a patient who is absent without leave or is otherwise at large and liable to be retaken.

Some of these might be relatively venial offences, but, on the other hand, some of them might have grave social consequences, and these are not only those referred to by the right hon. Lady the Member for Warrington (Dr. Summerskill). These are offences which also govern the State institutions. I can envisage much graver social consequences which might follow the unauthorised escape, aided by somebody, of a patient in a State institution who, perhaps, harbours violent sexual or other instincts which might lead to one of those very sad cases with which we are all familiar, though they happen on infrequent occasions.

I merely remind the Committee of that, reinforcing what the right hon. Lady has said, and stress that these are maximum penalties. The advantage of a maximum penalty is that it then is for the court to judge of the particular circumstances taking all these factors into account in the particular case. As we all know, it by no means follows that the maximum penalty would normally, or even frequently, be imposed. It exists, however, as a suitable penalty and deterrent for this other class of case, which we must not lose sight of having regard to our duty to the public as a whole.

One final observation on the Amendment, which may not have occurred to the hon. Member, is that his proposed reduction of the term of imprisonment on summary conviction from six to three months would deny to the accused his right of electing to go for trial by jury, which is a privilege much cherished by people who come up on summary trial. That would be a further disadvantage and I hope that on consideration, the hon. Member, having ventilated his point and realising that a wide range of cases is covered, will agree that it is best for the court to exercise discretion according to the individual circumstances of the case within these maxima.

Mr. Robinson: I freely confess to the right hon. and learned Gentleman and to the Committee than I had not foreseen the consequence of the Amendments that I should be denying the person summarily charged the right to a hearing in a higher court, nor can I believe that that was the precise purpose of the Minister in fixing the penalty. However, I am not in any way convinced by the Minister's arguments. I still regard this as a lesser offence than the other two for which the same maximum penalties are imposed, but to demonstrate to the Minister the co-operation for which he asked at the last sitting of the Committee, I beg to ask leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

Amendments made: In page 84, line 31, leave out subsection (5).

In line 32, leave out " subsection (2) and except subsection (3) ".—[*Mr. Walker-Smith.*]

Clause, as amended, ordered to stand part of the Bill.

Clause 128 ordered to stand part of the Bill.

Clause 129.—(PROSECTIONS BY LOCAL AUTHORITIES.)

Motion made, and Question proposed, That the Clause stand part of the Bill.

Mr. Robinson: I should like to hear the Minister's view about what I regard as a possible consequence of the Clause. It seems to me that under the Clause, a local health authority might be permitted to institute proceedings in respect of an offence committed, or alleged to have been committed, within a hospital. If that is the case, it would seem to me rather undesirable that a local authority which has no administrative responsibility in any way for the hospitals in its area should be the body to institute proceedings. I would have thought that in cases of that kind, the onus should be that either of the Minister, the Director of Public Prosecutions or somebody else. It may well be that I have misunderstood the Clause and that it is not the intention that the local health authority should prosecute. At the same time, I would like to know whether the Minister envisages that the local health authority

would normally be the prosecuting authority with regard to offences under this Part of the Bill or whether this merely gives the local authority the power to institute proceedings which otherwise it would not have.

Mr. Walker-Smith: The fears of the hon. Member for St. Pancras, North (Mr. K. Robinson) may be set at rest. It is necessary to legislate for the power for the local health authorities to prosecute in appropriate cases. As the hon. Member will see from subsection (2), the Clause has regard to cases in which local authorities act as registration authorities. In the case, however, of the Minister and the hospital boards, they have, in any event, general power to institute proceedings where necessary. Therefore, the Clause is silent in regard to them for the good and sufficient reason that they do not need to be given expressly the powers which are inherently theirs. In practice, therefore, the hon. Member may be assured that any prosecutions arising within the hospital sphere will be either by the board or by the Minister, as the case may be, and that the local health authorities will only be prosecuting within their own sphere of responsibility under the Bill.

Mr. Robinson: I am partially reassured by what the Minister has said. It occurs to me, however, that there might be cases in which the Minister and the boards were unwilling to prosecute when a local health authority might decide in its wisdom that prosecution should be instituted. I see the seeds of a rather undesirable clash between the two health authorities, the Minister and the boards, on the one hand, and the local authority, on the other hand. There might be a case for excluding offences committed within a hospital. I do not want the Minister to make any off the cuff decision about this, but I would be grateful if he would look at the matter before Report and see whether it might not be desirable to make the point rather more clear so that the consequences which he has outlined would be automatic rather than probable.

10.45 a.m.

Mr. Walker-Smith: Certainly. The words under this Act are widely drafted because, as one knows from experience, there is some virtue in having these permissive powers widely drafted in case in fact we come across the exact case which, by a tighter drafting, has been omitted. With that in mind, I will look at the point which the hon. Gentleman has made.

Question put and agreed to.

Clause ordered to stand part of the Bill.

Clause 130.—(PROVISION OF POCKET MONEY FOR IN-PATIENTS IN HOSPITAL.)

Mr. Robinson: I beg to move, in page 85, line 22, at the end to insert:

"and in respect of remuneration for work done in the hospital".

I move to insert these words really in order to find out from the Minister whether it is necessary to have them in. What I have no doubt about is that the provision for payment for work done in the hospital is itself necessary. It is merely a question of whether statutory permission is required.

I think the Committee knows that in many hospitals today, in addition to occupational therapy, there is what is known as work therapy in which patients practise not merely crafts and activities which are designed purely to help their treatment and keep them occupied but work which is much more analagous to the type of work they will be called upon to do in the community outside after they are discharged, and, as such, it provides a sort of transitional rehabilitation process. I believe that Banstead Hospital was a pioneer in this field, where there is a hospital factory. There are also hospital factories at Hill End, near St. Albans, and, indeed, many others.

It is very important as part of the rehabilitation process that patients should feel they are getting remunerated for the work they are actually doing. In many cases it is very much a routine task that is performed, but in others, with patients much nearer recovery and discharge, some reasonably complex and very useful work is performed, often for outside bodies, and the outside bodies pay the hospital exactly the same for the work done as they would pay any other sub-contractor. Therefore, I think it is desirable from every point of view that there should be provision, as indeed there is at the moment, for the patients to be paid for work done. I hope that the payments we are making at the moment are not illegal; they are certainly widespread;

[MR. ROBINSON.]
and perhaps the Minister will say whether it is necessary to have these words in the Bill or not.

Mrs. E. M. Braddock: I wonder whether I may ask the Minister to give us some more information about what this Clause means. Apart altogether from my hon. Friend's Amendment, subsection (1) has reference to the right to pay. Am I in order?

The Chairman: I think it would probably be better to deal with this on the Motion, That the Clause stand part of the Bill.

The Parliamentary Secretary to the Ministry of Health (Mr. Richard Thompson): I think I can answer the hon. Gentleman for St. Pancras, North (Mr. K. Robinson) quite shortly. His Amendment is unnecessary for the reason he thought. The power to pay pocket money is being made statutory in this Clause, quite frankly, because there was that shadow of doubt, although it is a long-established practice, as to whether it was in order before, but there are no doubts whatsoever about the rights of hospitals to pay for work done, and that does not require any kind of statutory reinforcement. Let me say that I entirely share and endorse what the hon. Gentleman said about the therapeutic importance of work; and hospital authorities will, I am sure, continue to encourage patients after they have got over the early stage, to which the hon. Gentleman referred, and to pay appropriate wages. I think that that deals with the point.

Mr. Robinson: I am grateful to the Parliamentary Secretary for his explanation, and in the light of his quite categorical assurance I have pleasure in asking leave to withdraw. I beg to ask leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

Motion made, and Question proposed, That the Clause stand part of the Bill.

Mrs. Braddock: I wonder whether the Minister would give us some further information about this matter. When we were discussing this question of payment or pocket money on the Royal Commission we were asked particularly not to do too much about it; but the matter was under very active discussion as to what steps were to be taken. I should like to know whether the procedure could not apply in the same way as that for residents in aged persons' hostels under local authorities who have no income.

There are many people having mental treatment and who under the new Act will be having treatment who have no income. They have no insurance because they have had no employment. They have been for long periods in mental institutions or mental hospitals and it has been left to the responsible medical officer or medical superintendent to decide whether they have had any money at all.

We discussed this matter, and we were wondering whether the discussions which were taking place were along the lines that any person who had no income should be allowed a set amount each week—the amount we did not discuss—as is the case for aged persons. If a person is in receipt of National Assistance and goes into an aged persons' hostel under the local authority the amount of £2 is paid to the local authority and on top of that the aged person receives 10s. from the National Assistance Board.

That has created many peculiar situations where people do not spend their money and it accumulates. We in Liverpool have found some very amazing situations where a person who has no income except that from National Assistance has a banking account in the Post Office or some savings. There are many people in mental hospitals particularly who have no income. They cannot have because no one sends them anything, although they get amenities, of course.

Is it possible for the Minister to tell us what the discussions have been, whether any decisions have been taken, and whether it is going to be the position that, instead of leaving it to some individual to decide who shall have some assistance and when, it may be possible, even if the amount is very much smaller than the 10s. a week allowed to an aged person who has no income, for there to be some way of making certain that people who have no income do have some money put to their credit regularly. One never knows: may be they will want to buy something, or to send some postcards, and it is very bad if they have to rely on

someone else. I believe this matter is one which should have had serious consideration.

We did not make any special recommendation about it, because we were told this was a matter that was being discussed very urgently, to see how the situation was to be met. Could the Minister tell us something about it, because it may be dependent upon that, what line we shall take with reference to this? No Amendment has been put down, but it may be necessary to do something later on. Could he tell us what has been discussed and whether any decision has been taken, or whether it is going to be left for someone in the hospital to decide periodically if someone needs payment for amenities.

The second point is whether there have been any discussions or decisions about people released on leave for a period. There have been difficulties there, although I understand they have been straightened out to some extent. Sometimes a patient has gone home on leave and has been sent home to his own parents without anything at all, and when the National Assistance Board has been applied to it has said it is not its responsibility at all, and the responsibility of making a contribution to the patient is a matter for the hospital authority. We had to have a process of going between the Assistance Board and myself, in one instance, and the hospital, before the person concerned had anything at all for maintenance. Has anything been done in relation to that? Is any special regulation going to be made, and is any instruction going to be made on these matters?

Miss Joan Vickers: I am pleased to follow the hon. Lady on this point, and I will not go over what she has said. As I read the Clause the Minister may pay persons receiving treatment as in-patients, whether they are in a State institution or other hospital. I understand that the National Assistance Board already has power to pay. This Clause is giving power to the Minister to pay. Are the persons concerned going to be paid on the same scale? I ask that because I think it will be very invidious, when the patients are, as we hope they will be in future, not in mental hospitals only but in ordinary hospitals, if they are to be paid at different levels. I should have thought it would have been better to have had one authority paying the pocket money.

Clause 10 deals with the welfare of certain patients in hospitals and with the hospital or nursing home where people can go to act as friends to patients. Will there be an authority for those people under this Clause to receive any form of pocket money? How will that be distributed to various individuals?

There seems to be no provision for any patient who may be in a local authority hostel. That is a point to which I should like particularly to draw my right hon. and learned Friend's attention. Is there any power under any Measure to give to people in day hostels or any local authority hostel so that they also can receive something on the lines of those patients who will be in-patients in hospitals or institutions?

Mr. Thompson: I think I can reassure hon. Members on both sides of the Committee. The power given to the Minister under subsection (1) is related to payments to patients, in-patients,

> " in state institutions or other hospitals, being hospitals wholly or mainly used for the treatment of persons suffering from mental disorder ".

It is for that class of patient that the hospital authorities will distribute ths pocket money payment. It is intended that it shall be at the same 10s. rate to which the hon. Lady referred. There will be no distinction there.

I think that the point that my hon. Friend for Devonport (Miss Vickers) made was the question about what happened to people in hostels. They, of course, do not fall within subsection (1) and they would be dealt with by the National Assistance Board. It may be asked, " Why is it necessary to have a division of authority at all? Why not do the whole thing through the National Assistance Board? " Indeed, that was what I think the Royal Commission had in mind, but I think it underrated some of the practical difficulties in dealing with a particular class of patient. Some patients, obviously, because of their mental condition, cannot appreciate the real value of the money involved; and the decision as to how they should receive it or whether it should be credited to their account and so forth seems to be a proper

[MR. THOMPSON.]
one for the hospital to take. The National Assistance Board has no machinery for this kind of delegated payment scheme. I can assure hon. Members that hospitals are being given full instructions about this; they are not being left in the air about it; and the general objective is that this arrangement, where it is operated by the hospital, shall not be any less advantageous to the patient than if it were operated by the National Assistance Board. I hope that with those remarks I may have set aside the doubts that existed.

Mr. Austen Albu: I do not quite see why patients in hospitals mainly used for the treatment of patients suffering from mental disorder should be distinguished from patients in a general hospital, because in the future it is anticipated that general hospitals will as a practice be treating patients suffering from mental disorders, and such patients will not be distinguishable, except perhaps in very extreme cases, from patients who are being treated for other than mental disorders.

11.0 a.m.

Mr. Norman Dodds: I should like to press the Parliamentary Secretary a little further on this matter, because although what he has said is very comforting if it is carried out, I doubt whether it will be. I should like him to give us a little more information about the intentions in order to see what the position will be. There was plenty of evidence before the Royal Commission, which indicated what a patchwork there was between the various hospitals.

The Minister said that many cannot appreciate the value of money. There are many inside the hospitals who can, but who do not get the opportunity. There are many who are kept inside who appreciate the value of money, because sooner or later they will come outside.

They do not have to have it in their possession, but can put it into an account, so that when they come out they will have something which may save them from going back again because people do not want them due to the fact that they have been in a mental hospital. In some cases where money has been put to an account the patient does not know how much is in the account, and there is evidence to indicate that from time to time a patient is told there is no money in the account because the hospital, without consulting the patient, has spent it, as it says, to buy something for him. The whole situation is most unsatisfactory.

At Cane Hill Mental Hospital, as the Parliamentary Secretary admits, there are people doing valuable work, up to 38 hours a week, and the men do not get pocket money but get 2 oz. of tobacco. Is not that a diabolical practice, when the Minister talks to people about the dangers of smoking and then keeps them inside and for their work does not pay them money but gives them tobacco? The Parliamentary Secretary tried to justify this a fortnight ago on the Floor of the House, and I should like to know since when this has been altered, and if it has been altered, how it is going to be enforced?

Mr. Robinson: I am gratified to hear the Parliamentary Secretary say that steps are going to be taken to see that uniform treatment is to be introduced into this field. I think he will agree that in the past, when the initiative in the matter of payment of pocket money has been largely left to individual management committees, the variations of practice have been enormous, and, in my view, deplorable. We shall all be pleased to know that efforts will be made to see that there is no distinction of treatment between the patient who gets pocket money from the hospital authority and the patient who gets it from National Assistance.

At the same time, I think there is force in what my hon. Friend the Member for Edmonton (Mr. Albu) said, as to whether it is necessary to still draw a distinction between the one type of patient in a mental hospital and the other suffering from physical illness in the general hospital. I accept the explanation that this Clause is included in order to deal with a situation which might conceivably be without statutory basis at the moment. As I see it, it does not produce a permanent situation. I hope the Minister will have in mind that, as the treatment of mental patients develops and we get it more and more aligned to the treatment of patients suffering from physical illness, as soon as the difficulties referred to by the Parliamentary Secretary can be overcome, payments of all types should be put under the same authority. I think the

National Assistance Board is probably the appropriate authority to deal with this.

I hope the Minister will assure us that this is not a permanently crystallised position, but is designed to deal with what we hope will be temporary difficulties, and that in the long run we shall treat all patients alike.

Mr. Thompson: In reply to the hon. Member for St. Pancras, North (Mr. K. Robinson), the arrangement we have arrived at here is one which seems to be the most administratively feasible; and, of course, we have to make a start on something. I am confident that the instructions we have sent out to hospital authorities will enable the question of pocket money to be dealt with on a more uniform and satisfactory basis than hitherto.

The hon. Member for Edmonton (Mr. Albu) wondered whether this distinction was necessary, and made the fair point that after all, patients suffering from various mental disorders are dealt with in a wide range of hospitals. In answer to that, I would say that the particular kind of hospital specified in subsection (1) are the State institutions and hospitals wholly or mainly used for the treatment of persons suffering from mental disorder; that is to say, hospitals dealing with the most serious and hard to treat cases. That is the only point there.

I would say to the hon. Gentleman the Member for Erith and Crayford (Mr. Dodds) that I think we must continue to draw a clear distinction between pocket money payments, on the one hand, and payment for work, on the other. This Clause deals strictly with pocket money payments.

Mr. Dodds: I was talking purely about pocket money, and payment for work I will come to later. I said what I did because the evidence before the Royal Commission of the South West Metropolitan Regional Hospital Board was:

> "It is a common experience that mental hospitals budgets cannot provide adequately for payments to all the patients who are likely to appreciate the extra comforts."

That is purely pocket money and quite separate from payment for work carried out.

Mr. Arthur Moyle: I must apologise for not having been here at the beginning of the debate, but I do not think it is quite satisfactory to say that we are going to deal with the question of men who are transferred to a job like a building job to do labouring work in order to strike a line of demarcation between that kind of payment for labour and pocket money. Could the Parliamentary Secretary be a little more explicit about this? A patient may do a job of work on the farm, or along with the gardening staff. That is an institutional job, but it involves two things. A certain type of patient only can be selected to do the work, either on the farm or in part of the garden, and there is the case——

The Chairman: Order. This Case is limited to payment of pocket money and we must not discuss the payment of wages for work done.

Mr. Moyle: I am being slightly long-winded, but we have been making a lot of expedition in the Committee the last few sittings and I think we might have a little leisure this morning.

The Chairman: It is not a question of leisure, but a question of being out of order.

Mr. Moyle: Then I will put my question like this and should like to ask the Parliamentary Secretary whether, for example, there would be any extra in a case of that kind which does not involve the question of payment of a wage in respect of work done.

Mr. Thompson: There are, I think, two points to answer. I think subsection (1) gives the hon. Member for Oldbury and Halesowen (Mr. Moyle) the answer about the people who get this pocket money, where it says

> "where is appears to him"—

that is the Minister—

> "that they would otherwise be without resources to meet those expenses."

It is people who have no resources of their own.

The second point was made by the hon. Member for Erith and Crayford (Mr. Dodds). I think he was making the point that hospital authorities in some cases had not got the money to pay out adequate pocket money. The effect of subsection (2) is to bring this expenditure of pocket money on to the hospital service Vote.

Dr. A. D. D. Broughton: A few moments ago the Parliamentary Secretary was good enough to reply to some questions put to him, and he made a remark which interested me. I gathered that there is to be separation of mental patients and that it is only those who are sent into hospitals which are wholly or mainly used for mental treatment who will be eligible for this pocket money. I think that it is unjust that this will apply to one type of person suffering from mental disorder and not to another, whereas it should apply to all, irrespective of the type of hospital at which they are being treated. Upon an earlier Part of the Bill I was asking for a clearer definition of "responsible medical officer", and I suggested—and I think I was supported by my hon. Friend the Member for Barking (Mr. Hastings)—that in the treatment of persons suffering from mental disorder it is necessary to segregate them into special hospitals or at least special wards, but my hon. Friend the Member for Liverpool, Exchange (Mrs. Braddock), who gave us her view of what the Royal Commission had to say, said that these patients would be treated in all hospitals. If they are, I fail to see why they should not be eligible for pocket money.

Mr. Thompson: All are eligible for pocket money if they lack resources of their own. It is only an administrative difference between who pays it, namely, the National Assistance Board in the majority of cases and the hospital authority in a smaller number of cases.

Dr. Broughton: I am pleased to hear that they will all get it, but why complicate the proceedings in this way some getting it from one source and some from another. Anyhow, if I have an assurance that patients who are without money will be eligible for pocket money from some source or another, no matter what hospital they may be in, then that satisfies me.

Mrs. Braddock: I should like to thank the Parliamentary Secretary for his statement. I am sure it sorts out the problems that we tried to face on the Royal Commission, although it does not quite accept the suggestions we made about one authority being responsible for the payment of pocket money. As long as we are assured that anybody who has no income and no means will have at his disposal an amount of money which he can spend, that is all to the good, although it may be advisable, in view of experience, for the Minister to look at the question in relation to this pocket money.

If a person dies we have had this experience which, I think, it is useful to know about. If he leaves some money there is always somebody who has had nothing to do with the patient and has refused to give any assistance to him while he has been in an institution or hospital who turns up to claim the money that has been left by the patient. We have accepted the responsibility in our accommodation in Liverpool that where that sort of thing happens the local authority makes a claim upon that money for the purpose of burial and for liquidating any expense. I take a strong view on this matter of anybody who has refused to have anything to do with or give assistance to somebody who has been incapacitated for one reason or another, because of payments that are made out of State money, whether National Assistance or other, being empowered to come along and claim it. It is a different matter if a person has been assisting a patient or spending money on visits and that sort of thing. I think that we must safeguard any payment made by the State in order to prevent the money from going to anyone who has done nothing to deserve it.

11.15 a.m.

Mr. Somerville Hastings: I should be grateful if the Parliamentary Secretary would clear up one point which I find obscure. He said that where a patient had no resources, pocket money would be given—I think an amount of 10s. a week. Some people may have small resources. Will they be given 10s., or what will happen? Such a situation may not arise, but I should like to be assured about it.

Mr. W. Griffiths: Is there any specified weekly amount to be paid? The Clause says, "occasional personal expenses". These expenses may vary enormously between one patient and another. One patient may smoke, another may not, or he may not want sweets or similar "comforts"—if I may use that term. Is it the fact that, regardless of their personal need, patients are to be given a regular

weekly sum, or is it to be left to the discretion of the hospital administrator? If it is to be left to his discretion, any kind of estate, however small, as envisaged by my hon. Friend the Member for Liverpool, Exchange (Mrs. Braddock), will not accumulate. The amount granted would be at the discretion of the administrator to meet the patient's needs from week to week.

Mr. Thompson : The short answer is that it is intended that this payment of 10s. should be made in accordance with the standards of the National Assistance Board. We know how difficult it is to legislate for particular hard cases or borderline cases, but I should expect the authorities to take a sensible and humane view.

Mr. Hastings : In other words the payment would be made if necessary?

Mr. Thompson: Up to a maximum of 10s.

Question put and agreed to.

Clause ordered to stand part of the Bill.

Clause 131.—(CORRESPONDENCE OF PATIENTS NOT SUBJECT TO DETENTION.)

Motion made, and Question proposed, That the Clause stand part of the Bill.

Mr. Robinson : I am sorry that the hon. Member for Ilford, North (Mr. Iremonger) who put his name to an Amendment to delete this Clause, is not present. This Clause deals with the censorship of patients' correspondence. I do not want again to go over all the arguments which I adduced when we were debating an earlier Clause dealing with the correspondence of patients subject to detention ; although I must say, having read over my arguments again, that they seem to me to be more unanswerable than ever. They were not, however, acceptable to the Committee. Now we come to a very different matter.

This Clause gives power to the responsible medical officer or hospital authorities to withhold both incoming and outgoing letters of informal patients suffering from mental disorder or who are receiving treatment for mental disorder in any hospital. That seems to cut across the whole idea of informal treatment for mental disorders. On the one hand we say that we want to encourage patients suffering from any kind of mental trouble, however slight, to ask for treatment for their condition in exactly the same way as they would do were they suffering from bronchitis or a broken leg. Then we say, " Come to a general hospital, if you like. That is where we are prepared to treat you. When you are there, if your illness is not physical but mental, your letters both in and out may be interfered with ".

I am sure that the Minister will say, " Of course, there is no intention to have any general censorship of the letters of informal patients, but we must have this reserve power because there will be the occasional case where it would be very nice to have this power and to be able to withhold the correspondence ". My answer to that argument before it is advanced—because I am quite sure that it will be advanced—is that precisely the same considerations apply in the case of patients receiving treatment for a physical disorder.

Let me cite a case in point. Suppose someone is being treated for cancer and, as is nearly always the case in such circumstances, information about the nature of the disease has been withheld from the patient. Some correspondent sends a letter to the patient, and, not out of malice, for in few cases would malice be carried as far as that, but because of carelessness, because the writer thinks the patient knows, the writer puts in the letter a reference to the fact that the patient has cancer. I cannot imagine anything more distressing than that a patient should learn the nature of his illness through a letter sent from outside. Nevertheless, no one would suggest that all the correspondence of every hospital patient should be subject to censorship in order to avoid one, very rare, distressing case of that kind. I suggest, therefore, that there is no case whatever for making a distinction between the informal patient suffering from mental disorder and the informal patient suffering from any other kind of illness.

On a former occasion I cited what I thought was a formidable list of bodies and individuals who had expressed themselves as being wholly opposed to censorship of any kind. I also mentioned a large number of hospitals in which, even under the present regulations, no censorship is ever instituted in the case of compulsory patients. There are many other

[MR. ROBINSON.]

supporters of the abolition of this Clause. I do not wish to quote from many of them, but a memorandum from a group of psychiatrists in the North-East Metropolitan Region, of which most hon. Members have received a copy, states :

"It is appreciated that there would seem to be some inconsistency in applying censorship to letters of patients who are not under any form of legal detention."

That puts the case I want to make in terms of the most extreme mildness—" some inconsistency ". It is also illiberal and, in my view, detrimental to the informal treatment of mental disorder and a strong deterrent to people coming into hospital to be treated.

I call the attention of the Minister to the fact that on this occasion I am delighted to have the support of my right hon. Friend the Member for Warrington (Dr. Summerskill) and in those circumstances I have little doubt that the right hon. and learned Gentleman will accept our view.

Dr. Summerskill : I question the last remark of my hon. Friend. The Minister will have observed that my name and the names of certain of my hon. Friends were not added to an Amendment designed to delete this Clause, which appears on the Notice Paper, until we had considered it for a number of weeks ; but, having carefully considered the matter, we felt that although the Minister might argue that we were being illogical, in the circumstances it is necessary to press for the deletion of the Clause.

I am well aware that when we discussed the sending and receipt of letters of persons compulsorily detained, the Minister kindly accepted an Amendment which he said he would embody in the Bill at a later stage. I drew his attention to the fact that it was possible for a letter to be sent to a third person and written in such a way that it might amount to a libellous statement. It may well be said that here we are being illogical, but I cannot accept that, in view of the fact that we are now proposing to pass a Bill in which, were it carefully examined, there would be found many illogicalities.

Perhaps I may be permitted to refer to the previous Amendment in order to give an illustration of what I mean—although, Mr. Storey, I am always conscious of your smacking me down at an earlier sitting of the Committee when I referred to something which had already been dealt with. I thought that my hon. Friends exercised great restraint in not pressing other points regarding the last Amendment when talking about illogicalities, and when we were referring to people supposedly abnormal, who contributed a fair day's work and who were being paid at a small rate of pay, and so on. That seems a little irrational. Perhaps it is because we are legislating for a rather irrational world.

In this case one must weigh the danger against the benefit. The danger is that patients will write letters similar to one which I described on a previous occasion—to someone in the village high street about the misbehaviour of the vicar. An informal patient might well do that, as I recognise, but the informal patient has willingly allowed himself to be sent to hospital for treatment. He did so in one of his more lucid moments. Another patient, suffering from the same paranoid condition, might object and the treatment would be compulsory. In one case a patient would be compulsorily detained and in the other the patient was willing to go into hospital.

Nevertheless, one cannot anticipate a change of mind on the part of a patient. A normal person cannot think in terms of auditory hallucinations or visual hallucinations, or in the way in which a person would think when suddenly seized by a desire to take a certain line of action. Yet during his lucid moments that patient might have been prepared to to be treated.

When I say that we have to weigh the danger against the benefit, that is the whole point. The danger is that a patient will write one of that sort of letters. The benefit to the whole community is that we have a last approached mental disease in the same way as we approach physical disease. We have persuaded the community that, if a person goes into a mental hospital, he will be well treated and well cared for, and not for one moment have we hinted that such a patient may be denied some of what are regarded as his cherished liberties. I think we should undo a great deal of the good which we have already done were we to allow it to be known by the community, at this stage of the change in public

opinion, that, in the event of an individual's becoming conscious of some nervous disorder, immediately going to his doctor and being treated in hospital, there is a risk that certain of his letters may be retained.

In such a case it is no use saying that the risk relates only to letters which would do damage to the patient or to the recipient of the letter. A germ of suspicion will be implanted in the mind of a patient that his letters will be interfered with, and he may think that it is just the letter he wishes to send to his nearest and dearest that will be stopped. I wish, therefore, to impress on the Minister that we have considered this matter very carefully and we think that in the circumstances it would be well worth while to risk any danger because of the benefit which would result.

Mr. Walker-Smith : We discussed the general principle at length during the ninth sitting of the Committee and in regard to Clause 36. I am sure that hon. Members will not wish to retread the familiar paths of argument which were then traversed. It would be churlish to deny to the hon. Member for St. Pancras, North (Mr. K. Robinson) credit for the fact that this time he looks like having more support than he did when we were discussing Clause 36 and when he was in a somewhat lonely minority.

11.30 a.m.

I do not want to accuse the right hon. Lady of illogicality, as she rather anticipated. Illogicality is never supposed to be a crime in her sex though she, as a stickler for sex equality, may not agree with that. I agree with the right hon. Lady when she says that it is a fine balance between the benefit and the danger and I have had a good deal of trouble in thinking about the Clause. I have to start, however, from the position that we have reached under Clause 36 where the Committee has rightly taken the view that we must have these powers, not because it is nice to have them—I cannot accept that phrase from the hon. Gentleman because I do not like having powers like this—but because it is necessary to have them. It is necessary to have these powers in regard to detained patients, both in respect of incoming correspondence for their own good, and in respect of outgoing correspondence for the protection of the community.

We now come to the point of whether the same principle will apply to the mentally disordered voluntary patient, or whether there is to be a distinction. It turns on a balance of these considerations. First, as the hon. Gentleman and right hon. Lady have said, it would be a good thing to be able to say we will make no distinction between the informal mental patient on the one hand and the ordinary general patient on the other, and that we will emphasise that by having no scrutiny of correspondence in respect of them. That is the argument for what the hon. Gentleman suggests. It is a powerful argument and one that has weighed considerably with me.

The other argument is that although in general hospitals one will now have general patients in some wards, and perhaps mental patients in psychiatric wards, one will also have within that same psychiatric ward, in this case literally side by side, Part IV detained patients and informal patients. We have decided that so far as Part IV patients are concerned this scrutiny of correspondence will apply. But here a far bigger distinction is being made, not between people in different wards of the same hospital, but between people in adjacent beds in the same wards. That is the argument on the other side. The right hon. Lady has fairly referred to it and acknowledged that it has weight.

Informal patients are in fact suffering from the same mental disorders as detained patients. They are subject to the same sensitivities in respect of incoming correspondence, and this makes it desirable that they should, in their own interests, be protected from unsuitable letters. In many cases they are subject to the same paranoic urges of sending out unsuitable correspondence and it is necessary that the outside public should be protected. In a word, the difference is not between the administrative procedures whereby they have come in for treatment, whether on the one hand the procedures of Part IV, or the informal procedure. It is in the mental condition itself.

Weighing those arguments against each other, the second argument is the stronger one. We are all agreed that those are the two considerations that arise. It is a balance of judgments on which side to come down and the right hon. Lady, not

[MR. WALKER-SMITH.]
without hesitation, has come down on one side. After considerable thought I have come down on the other side for the reasons I have given.

We are embarking here to make the informal procedure the general pattern. I do not want to do anything which will jeopardise or possibly discredit what we are doing. If we had the position whereby a stream of letters was coming out from informal patients and causing offence in the country, what would be the result? The result would be that we would be accused of having been unusually liberal and progressive in our approach to this matter, and we would be told to rein back. We would be accused of having gone too far and told that we must have regard for the outside community by having more Part IV patients and not so many informal patients. Attention would be drawn to the provisions of Clause 26 (1, *b*):

"that it is necessary in the interests of the patient or for the protection of other persons that the patient should be so detained."

It would be said that the informal patient who was sending out offensive letters without let or hindrance should not be an informal patient.

Mr. Moyle: Having regard to my experience of mental hospitals I was in sympathy with Clause 36, but I want to put this point to the Minister. As I understand it this applies to an institution of a local health authority, and it is a reasonable assumption that a substantial number of the patients could be voluntary or informal patients. Having got his Clause 36, is it not unnecessary to have this Clause in this Part of the Bill? This could be done administratively by giving the responsible medical officer wider discretion not only for the protection of the patient, but the protection of the public from the patient?

Mr. Walker-Smith: Clause 36 applies only to detained patients. If this Clause is omitted nothing can be done in regard to the correspondence of paranoic informal patients, except to make them compulsory patients. That is what we do not want to do. The right hon. Lady fairly put the point that a patient in a lucid interval says he will be a voluntary patient, and we are all glad of that, but in a paranoic case when the patient has a paranoic fit he writes a letter.

Dr. Summerskill: Episode.

Mr. Walker-Smith: We do not want him to be a compulsorily detained person because he writes a letter but we must protect the public.

Mr. Robinson: Protect the public from what?

Mr. Walker-Smith: We have discussed this on Clause 36 and I do not want to repeat what was said. The hon. Gentleman stands in rather a special position but while I respect his position I do not agree with it. I suggest that the balance comes down on the other side and I have made the position as clear as I can from my point of view.

Mr. A. Blenkinsop: The right hon. and learned Gentleman put the point that to omit the Clause would tend to increase the difference in treatment between a compulsorily detained patient and the informal patient who may be either in the same ward or at least nearby. Is not the point that the detained patient is under a different régime and knows perfectly well that he is subject to detention? Even if his correspondence were not interfered with, I have a strong suspicion that he would believe it was because of the fact of its being, in his mind, part of the whole question of compulsory detention. We have had to interfere with his liberty in that way and I do not see that it adds particularly to his sense of injustice if we keep the informal patient relieved of that disability. I think that the informal patient will expect, as part of the informality of his admission, that he should be treated as an ordinary patient. That is the point. I understand the difficulty of coming to a decision on this question of the point of balance, but unlike the right hon. and learned Gentleman I think that we should come down on the other side and stress the informality of admission and follow that informality with informality of treatment as far as we can.

Mr. Albu: The Minister rightly said that this was a difficult decision, based on the balance of arguments, and that there was no absolute right or wrong. In spite of what my hon. Friend has said I thought the best arguments were those which referred to the coexistence in the same wards

of patients admitted under the two procedures. Against that, there is the danger of deterring patients from entering hospitals under the informal procedure. Perhaps an equally serious danger is that once they are in they may decide to go out again if they find themselves subject to what they may not have realised, that is to say, this type of censorship, even if it does not apply to them. They may discover it or fear it.

When thinking of the balance of the argument we must remember that we are considering the imposition of this censorship in a small number of cases. In fact I understand it is so infrequently necessary to apply this that in practice, in three-quarters of the mental hospitals, no censorship is used at all. We are dealing with a small number of cases and we have to consider the statistical probability of this being done. The statistical probability of its being done in the case of informal patients will be considerably lower than in the case of patients compulsorily detained, partly because the patients themselves will be in an earlier stage of the illness and there may be something in their general mental health background which makes them more amenable to psychiatric treatment. In other words, it will be possible for the psychiatrists and nurses in the hospitals more easily to persuade them against a particular type of action. Obviously this is not an absolute thing, but the statistical probability seems to be that there will be less likelihood of these patients sending out offensive letters than in that those detained under the compulsory procedure may.

11.45 a.m.

The only reason I bring forward this argument is that the Minister himself said that we are considering only the balance of the argument and on balance it seems to me that in these cases, bearing in mind that both the statistical probabilities of harm being done if there were no censorship and the serious danger of both deterring patients from coming in and encouraging them to go out—or reminding them that perhaps they would be better outside—whatever we might have thought about Clause 36, we should come down in this case against imposing the censorship. It seems to me from all the evidence that the resulting dangers are so small that it is a risk worth taking.

Mr. John Hynd: I should like to put one or two fresh points in the hope that the Minister will still be prepared to reconsider the matter. The right hon. and learned Gentleman made great point of the fact that we have already accepted Clause 36 and that here we are dealing with patients in the same ward and suffering from the same illness. The fact remains, however, that we are still dealing with patients who are in the hospital under quite different conditions.

The Minister agreed that it was only after very careful balancing of the very fine differences between the advantages and disadvantages that he had been persuaded of the necessity of including Clause 36 in relation to detained persons. If he felt those doubts which he seemed to express even in regard to Clause 36 and was not convinced—because, as he said, the balance was a fine one—surely, when dealing with a voluntary and different class of patient, we should take this opportunity of trying out whether we were right in Clause 36 and afford much more liberty than to detained persons under that Clause. At least, here we have an opportunity of trying both methods and with the full justification which is provided by the differentiation between the different types of patient.

I was interested in the case of the paranoiac, to which the Minister referred. I do not have much experience and do not know how many paranoiacs are voluntary patients, but I should be surprised to find that there were many, because the condition of a paranoiac is not such as to encourage him to become a voluntary patient. I assume, however, that there are such cases.

The paranoiac has his fits and urges when he wants to write letters to people. He becomes a voluntary patient in hospital. Then, he has an urge and writes a nasty letter to somebody, but he was writing these letters to people before he went into hospital, when there was nothing to prevent him, except a court charge, which is seldom, if ever, taken because the condition of the patient is recognised. The kind of person to whom the patient writes is always the same type of person, who knows the patient and is not upset or offended. The general problem of such a person is to know how to encourage him and what to do.

[MR. HYND.]

The Minister says that when such a patient goes into hospital, he must be stopped writing the letters. What will be the effect of this, particularly on the paranoiac who suffers from a persecution complex? He goes to the people who, he thinks, may be able to help him. Nobody else has been able to do so. His Member of Parliament, the chief constable, the town clerk, the Queen and the Prime Minister, to whom he has written, are all in the plot against him. He has been persuaded, however, that there are in hospital people who will help him. When he enters the hospital, however, they are to stop him from writing letters. That would have a disastrous effect upon him, even if he decided not to take the obvious course suggested by my hon. Friend the Member for Edmonton (Mr. Albu) of not remaining a patient.

Does it not seem that in this type of case there is everything to be said for helping the man and for giving him the feeling that in the hospital, at least, there is somebody who will not try to prevent him from writing letters but will, in fact, help him?

There is the other aspect that he is not only writing letters, but is probably receiving them. If he is visited by people who ask whether he has received their letters, he finds that their letters are being stopped when coming in and he may be in a mental condition which immediately causes a disastrous reaction. If he were not a voluntary patient, he would be getting the letters wherever he was. I cannot see what advantage would be obtained from insisting upon this rigid application of the Clause to these voluntary patients.

The Minister said something which, I thought, could have sinister implications when he said that without the Clause, we would be in the position that there was nothing to stop these people writing their letters except by bringing them under the category of detained persons. I did not like the sound of that, and I do not think that the Minister meant it as he could have meant it.

Mr. Walker-Smith : My point was that here we are seeking to extend the area of voluntary treatment as against compulsory treatment. Right from the beginning of the Bill, I have made it clear that that stands in the forefront of our policy in this regard. I was saying that if in applying that and having no sort of safeguards concerning the correspondence of voluntary patients, there was then a stream of offensive letters, people and public opinion might say that I had made a mistake or gone too far in extending this voluntary treatment, and pressure would be applied for the extension of compulsory procedures.

Mr. Hynd : That may be. If, however, the patient qualified for forced detention that would be applied anyhow. If he was a voluntary patient, we should encourage him to remain a voluntary patient. As I pointed out after the Minister's last comment, we are not protecting anybody from offensive letters, because the patient has already been sending them and will continue to do so if he does not become a voluntary patient. Here is an opportunity of letting him continue.

We get these letters regularly, but we are not upset about them. The local doctor and all kinds of people get them. We know who these patients are and what is the matter with them. To apply this rigid control when the man or woman has come for help in his or her mental condition would be a serious mistake.

There is always a danger in these cases that once such power is given to medical officers in hospital, or whoever it might be, they tend to be a little over-cautious and to take the safer course and to interfere with correspondence as a kind of routine. They might even have so much to do that they pass on the task to a junior officer to act in their behalf and it becomes a routine matter of the opening of letters and parcels and automatically stopping them because of a nasty word in them or something which might be regarded as conveying an offence to somebody. That is going too far.

We may be justified in making the experiment in Clause 36 in regard to detained patients, and even the Minister is not entirely certain whether we are striking the right balance. Surely, with this different kind of patient, the voluntary patient, we could take the risk of deleting the Clause. Then, we would have the contrast of the two experiences which could lead to a greater knowledge of the matter at a later reconsideration.

Dr. Broughton: We discussed the principle when we considered Clause 36. On that occasion, the Minister put forward a powerful argument. I was surprised that he did not win the unanimous support of the Committee on that occasion. He failed to do so, I suggest, because the illustrations he gave were not sufficiently good in support of his case. I further suggest that the reason why the illustrations were not sufficiently powerful was that he did not wish to read to the Committee some of the letters that he must have in his possession.

We are dealing with voluntary patients, but whether they be compulsorily detained or voluntary, they are patients suffering from mental disorder. When they go into hospital, they are subject to the rules and regulations of the hospital. I agree with the Minister that if it is necessary, there should be some censorship of their correspondence and the withholding of letters.

My hon. Friend the Member for Sheffield, Attercliffe (Mr. J. Hynd) suggested that that would mean a routine examination of letters, but that is not the case. Properly trained mental nurses and psychiatrists understand their patients. They know which patients can be relied upon to send out, if not reasonable letters, at least non-offensive letters, but they also quickly discover which is the type of patient that is likely to send out offensive letters. As the Minister has suggested, there are few cases—they are very few indeed—in which correspondence should be examined and, if necessary, the letters should not be sent.

Mr. Robinson: Can my hon. Friend explain how those few cases can be selected from a batch of sealed envelopes without the whole lot being examined?

Dr. Broughton: Yes, quite well. As I have said, the trained staff in a mental hospital understand their patients, just as a mother understands her child.

Mr. Robinson: Surely, the patients do not give their letters individually. They post them in a box or some kind of container. How does the staff divine which are the small minority of potentially offensive letters from a batch of mail?

Dr. Broughton: In just the same way as I was about to explain that a child may write a letter, put it in an envelope, put a stamp on it and post in the pillar box. A mother, however, usually knows that that is being done and the type of letter that is written. If it is perfectly harmless or addressed, say, to Father Christmas, she allows it to go. Similarly with the staff of a mental hospital. They know their patients and which are the ones who send out perfectly harmless letters and those who send out offensive letters. In fact, they would not be very proficient at their job if they were not able to do that, in the same way that a mother might not be a very good mother if she did not thoroughly understand her children.

I have seen some of these letters that have had to be stopped going out. To call them offensive letters is putting it mildly. They are disgusting and foul, some of them written on lavatory paper. If we delete the Clause, as is suggested, any voluntary patient in hospital could dispatch any letter, however disgusting and foul its contents might be. The letter might be written, as I have seen letters written, on lavatory paper or old newspaper or cigarette packets and it would go out. If that is permitted, as the Minister said, it will not be long before there is complaint and the threat of legal action against the hospital for permitting such letters to go out.

The Minister admitted that this is not an easy problem to decide. It is the balance between benefit and danger. After having seen some of the letters that mental patients are capable of writing, however, I come down in favour of retaining the Clause.

Mrs. Braddock: I wonder whether the Minister will reconsider the Clause. What he wants is protection for the person responsible in the hospital who feels that it is necessary to open or to stop a letter from a voluntary patient. The Royal Commission took the view that letters should not be stopped, either going in or coming out, and that, I believe, is the general view of hospital medical officers. They do not like the responsibility of opening and reading letters, either coming in or going out.

I admit, however, the necessity to protect the medical officer from any action that may be taken against him or any officer in the hospital if he discovers that a letter from a voluntary patient will create a tremendous amount of difficulty and he stops it.

[MRS. BRADDOCK.]
12.0 noon.

I am rather in favour, I must admit, of not stopping correspondence either going in or coming out, unless the medical officer concerned has had reported to him that there may be difficulties or the patient may be doing something and saying something wrong. The more restrictions we put on, the more dodges there will be to send letters out which no one knows anything about. In the Royal Commission we had the advice of very responsible medical men who took that point of view, and that was why we came to the decision we did come to with reference to the stopping of mail of mental patients.

On the other hand, I do think it is necessary that the medical officer ought to have the right, even with a voluntary patient, to stop a letter that may so upset the patient as to retard his progress under treatment. The same restriction ought to apply to a patient sending a letter which may cause someone else to become mentally upset because of what is in the letter.

I think though, that the Clause is too cumbersome, and I think that it should be looked at again to see whether it is possible to give protection to those who have the responsibility of treating patients and of checking or stopping their letters. I think the Minister ought to look at this matter again because he is making heavy weather of this question of voluntary patients and the stopping of their letters.

I do not think we should go to the trouble of voting on this matter. I think that if he thinks about it he will agree it is necessary to have protection of the responsible officer if he feels there is a need to stop a letter in order to protect the voluntary patient from a scurrilous attack or statements that may be made in a letter which may make him more ill than he has actually been in the past. I think that that is what is necessary but that the machinery is too cumbersome to get over the difficulty.

Mr. Robinson *rose*——

Mr. Walker-Smith: I think perhaps I could just put in two or three sentences the case as I see it? Having listened attentively to the debate I would say that it would be a mistake for this Committee to delete this Clause. I am sure that it would give rise to great misunderstanding if we left a great void in the Bill, and I hope we shall not be asked to do that.

I listened attentively to all the arguments. I would say in regard to the point made by the hon. Gentleman the Member for Newcastle-upon-Tyne, East (Mr. Blenkinsop) that, though it is true there is a basic difference between the compulsory and the voluntary patient, surely the object we have at heart is that, so far as possible, the difference is confined to the right to leave the hospital at any given time; but so long as that right is not exercised, so long as one is there receiving treatment, then so far as possible patients should be on the same footing. That, I think, is the principle we should follow.

Mr. Blenkinsop: Surely the compulsory patient is conscious of his compulsion whatever we do while he is a patient? We cannot avoid that.

Mr. Walker-Smith: He may be conscious of the fact that he cannot leave, but we want it to be the case that, while he is there, and while the voluntary patient is there, there is the minimum distinction between the treatment and approach of the two.

If the Clause is left in I will undertake to do these things: I will undertake again to enquire whether expert and responsible opinion really thinks that this power is necessary in respect of the voluntary patient—although I apprehend the answer will be the same, and that assumption is powerfully reinforced by the speech made by the hon. Gentleman the Member for Batley and Morley (Dr. Broughton), with all his experience in this field.

Mr. Dodds: Why did the Minister not take advantage of his experience on other Parts of the Bill?

Mr. Walker-Smith: I like a selective approach in these matters, which has served me well to date.

Secondly I will also go into the point of the hon. Gentleman the Member for Edmonton (Mr. Albu), which is only an hypothesis; that is, it might lead to people not accepting voluntary treatment if they thought this was going to be applied. I do not think that that is so, because at present there is the practice whereby voluntary patients, on admission, sign agreements to that effect in many cases, but I will look into that point again and

find out whether it is expected that this would exercise any deterrent effect upon voluntary patients.

Mr. Albu : The point was the danger of patients leaving.

Dr. Summerskill : Mine were coming in ; his were coming out.

Mr. Walker-Smith : They are allied points, if I may say so, and certainly the same inquiry can cover both.

Also, certainly, I will look into the point of the hon. Lady the Member for Liverpool, Exchange (Mrs. Braddock) as to whether, in the case of voluntary patients, we can apply a different procedure while seeking to exercise a proper degree of control, which we have to have for the reasons I have given.

I will certainly do those three things between now and Report, but I think we should leave the Clause in the Bill.

Perhaps the Committee, or most of it—I am not sure about the hon. Gentleman the Member for St. Pancras, North (Mr. K. Robinson)—will be content to leave it at that.

Mr. Robinson : If the right hon. and learned Gentleman had remained seated a little longer, perhaps he would have known what I thought. I am glad he has changed his view between his two speeches in the light of the support there has been for the deletion of this Clause.

I should like to assure the Committee, and particularly my hon. Friend the Member for Batley and Morley (Dr. Broughton), that one does not have to work in a mental hospital to know the type of letters mental patients write. There has been some discussion about letters written on toilet paper. The week before last I had myself a letter written on 485 sheets of toilet paper, entitled " Bureaucracy Gone Mad ". [An Hon. Member : " Did you read them? "] Not all.

Mr. Walker-Smith : Was there any tedious repetition?

Mr. Robinson : A good deal.

So it is not from any ignorance that I take the view I do. The Minister's arguments were very effectively dealt with by my hon. Friend. The fact is that almost all medical superintendents say they can deal with these letters by persuasion and they do not need statutory powers. If that is true of certified patients then *a fortiori* it must be true of the other patients. We are conferring a new power under this Clause. There is no power now to censor letters of informal patients. [*Interruption.*] For a voluntary patient, yes ; a voluntary patient also signs a form. We are now to have informal patients, who sign nothing. There is no power until this Bill becomes law to censor their letters. I am not aware that anyone has asked for this power.

If I get a satisfactory answer I do not want to press the matter in the light of what the Minister says, but I do hope he is going to try to ascertain the view of those who work in this field, and not merely seek again the advice of those who have already advised him. If he will do that and find out what the psychiatric staffs of the medical hospitals, particularly medical superintendents, feel about this, I will not press the matter.

Mr. Griffiths : I am not sure that the matter should not be pressed. My hon. Friend the Member for Batley and Morley (Dr. Broughton), who, I know, would not come to the point of view he expressed without the most serious consideration, I thought completely failed to answer the intervention made by my hon. Friend the Member for St. Pancras, North (Mr. K. Robinson) when he asked him how a patient who is likely to write extremely offensive letters could possibly be identified without the medical officer in charge going through the whole of the correspondence as it was all in the same box. That being so, I want to know whether we can be absolutely certain, assuming the Minister gets these powers, that the people who carry out the censorship of incoming and outgoing mail will not reveal what they see to any other party, including the police——

Mr. Walker-Smith : Oh, yes. I think we can be sure of that.

Mr. Griffiths : —so that even to a police officer or a member of MI5 they would not divulge what they have seen.

Mr. Walker-Smith : This censorship of correspondence is no new thing, and I am aware of no complaint of any sort in regard to the matter to which the hon. Gentleman refers. I think he can be reassured.

Mr. Griffiths: And that would apply to the new category, the informal patient, whom we are dealing with for the first time? I think it is a matter of very great importance, because it is a fact, as the Minister knows, that within the last ten years, and more acutely in the last six or seven years, there have been people in the Civil Service and in some sections of industry who have lost their jobs or been put out of their jobs by administrative action without their being judged to be in breach of the law and brought before the courts. And that decision is taken on the basis of information secretly laid.

It would not be proper now to argue about this so-called security procedure in this Committee, but there are these inquiries into persons' political beliefs and political activities which in the last few years have resulted in a few people, a relatively few people, in the Civil Service and in industry being moved from their jobs on the basis of information given by secret informers. I conceive that such a person might be placed in the position of an informal patient. It is a remote possibility, but I am concerned with these remote possibilities. Can we be absolutely assured that such information, which might jeopardise their future on release and after cure, would not be used by the people who must see this mail—as I am sure they must, despite what is said by my hon. Friend the Member for Batley and Morley.

Mr. Walker-Smith: I do not think there is any question of making extracts and filing them. It is merely a question that the letter does not go because of its contents.

Question put and agreed to.

Clause ordered to stand part of the Bill.

Clause 132.—(WARRANT TO SEARCH FOR AND REMOVE PATIENTS.)

Amendments made: In page 86, line 14, leave out "mentally disordered patient" and insert "person believed to be suffering from mental disorder".

In line 20, leave out "the patient" and insert "that person".

In line 21, leave out "the patient" and insert "him".—[*Mr. R. Thompson.*]

Mr. Thompson: I beg to move, in page 86, line 24, at the end to insert:

(2) If it appears to a justice of the peace on information on oath laid by any constable or other person who is authorised by or under this Act to take a patient to any place, or to take into custody or retake a patient who is liable under this Act to be so taken or retaken,—

(*a*) that there is reasonable cause to believe that the patient is to be found on premises within the jurisdiction of the justice; and

(*b*) that admission to the premises has been refused or that a refusal of such admission is apprehended,

the justice may issue a warrant authorising any constable named therein to enter the premises, if need be by force, and remove the patient.

12.15 p.m.

This Amendment, and the two Amendments which follow and which go with it, are, perhaps, a little more than drafting. The new subsection which it puts in provides for the case of a patient, in respect of whom an application has already been made, who keeps himself behind locked doors to avoid being taken to hospital or being readmitted after escape. Under the new subsection the warrant must be addressed to a constable, as the most suitable person to enforce entry.

Amendment agreed to.

Further Amendments made: In page 86, line 28, after "under", insert "subsection (1) of".

In page 86, line 32, after "under", insert "subsection (1) of".—[*Mr. R. Thompson.*]

Motion made, and Question proposed, That the Clause, as amended, to stand part of the Bill.

Mr. Robinson: There is one point on this Clause that has been raised by the Society of Mental Welfare Officers. They note that in order for action to be taken under this Clause it is necessary for the doctor and mental welfare officer to be present. They ask whether there is any reason why the compulsory procedures under Part IV should not be enabled to take place when the patient has to be moved to a place of safety. I am aware that a place of safety does include the hospital, but the procedure under this Clause is of a purely emergency character following the removal of the patient

from the premises where he is. I should have thought that, since we have all the prerequisites of an order for compulsory detention under Part IV, that is to say, the patient, the doctor and the mental welfare officer, it might be in the patient's interests if an order under Part IV of the Bill could be made there and then and the patient taken from the hospital.

Mr. Thompson: I take note of what the hon. Gentleman says. I should not care to answer him on that point now, because we gave a good deal of thought to this and it seemed to us that the practicality of the thing would almost invariably require him to be taken to a place of safety first. I will, however, look into it.

Question put and agreed to.

Clause, as amended, ordered to stand part of the Bill.

Clause 133.—(MENTALLY DISORDERED PERSONS FOUND IN PUBLIC PLACES.)

Mr. Robinson: I beg to move in page 86, line 40, after "constable", to insert "or a mental welfare officer".

The Chairman: The hon. Member's next Amendment, in page 86, line 43, after "constable" insert "or mental welfare officer" can be taken with this one.

Mr. Robinson: This Clause deals with mentally disordered persons found in public places. I only want to suggest that there may be cases where it would be in everybody's interest if the removal from a public place could be done not necessarily by a uniformed constable but by a mental welfare officer, if he happened to be present or if somebody had sent for him. There is no suggestion that one is removing any powers from the constable; indeed, one is extending the powers under this Clause. I do not want to repeat what has been said frequently by my hon. Friends and myself on this Bill, that mental welfare officers are responsible people. They are used to handling people suffering from mental disorder, particularly in their violent phases, and I think no harm could be done by extending the powers under this Clause to them as well as to the constable. I can think of many cases where it would be in the interests of the patient and of the public if mental welfare officers were to have this power.

Mr. Thompson: I take the hon. Member's point, which gives expression to some misgivings expressed by the Society of Mental Welfare Officers. I think what he feels is that he does not want a situation to arise where some unfortunate person might be thought to be committing a crime because he is removed from a public place by a police officer, and that perhaps a more tactful and less obvious removal by somebody in plain clothes would attract less attention. I think that here we have to consider the balance of advantage.

I could not recommend the Committee to accept the Amendment, because frankly, in cases where force has to be used, I think it is better that a policeman rather than a civilian should exercise it, and I think the Society of Mental Welfare Officers recognises that. Secondly, from the public point of view, I think that they naturally turn to the police if some kind of disturbance breaks out. But on the hon. Gentleman's point, there is nothing to stop a mental welfare officer, in the first instance, from doing his best by tactful persuasion, and by means which he understands probably better than anybody else, to get the unfortunate fellow away before things get too bad. However, if we get to the point where force has to be used, I think the police should be the people, and I feel that the public would understand better if the police were doing it. If there were a disturbance it might be almost open to more misunderstanding by the public if a civilian person were seen to be trying to take somebody under restraint.

For those reasons, I hope the hon. Gentleman will not press the Amendment. We have given it careful thought, but the balance of advantage lies, I think, in the Clause as it is.

Mr. Robinson: I agree with the Parliamentary Secretary that where it is a case of removal by force these powers should not be extended to the mental welfare officers for the reasons he has given, but I am thinking solely of the type of case where this could be done by tact and persuasion equally well, or perhaps even better, by a mental welfare officer. I had not really appreciated that this Clause dealt only with removal by force, but I think probably the legal meaning of the words "remove to a place of

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safety" does involve force, and in all the circumstances I beg to ask leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

Clause ordered to stand part of the Bill.

Clause 134.—(AMENDMENT OF PROVISIONS AS TO MEMBERS OF PARLIAMENT.)

Mr. Robinson: I beg to move, in page 87, line 15, to leave out "person in charge" and to insert "managers".

This is a probing Amendment, because suddenly, after having had 133 Clauses of the Bill in which we deal with responsible medical officer and managers, and all these persons carefully defined, we have somebody quite new, "the person in charge of the hospital". I passionately want to know who that is. It is curious also that it should crop up in a Clause dealing with Members of Parliament and their mental disorders, or should I say their discovered and revealed mental disorders? I should have thought that the managers were the appropriate people to take this action. I shall be glad to know what the Minister has to say about this.

Mr. Walker-Smith: I think I can satisfy the hon. Gentleman's curiosity quite quickly. As he knows, in the main part of the Bill we are concerned with England and Wales, which indeed is the extent of my jurisdiction as Minister of Health, but in the House of Commons, happily or otherwise—and I think we should assume happily—we have hon. Members representing other areas, notably Scotland and Northern Ireland. The term "managers", though apposite to England and Wales, with which we are mainly concerned, would be inapposite to Scotland and Northern Ireland. Hence the term "person in charge", which includes managers in England and Wales.

Mr. Robinson: With respect, ought there not be an interpretation Clause which makes that clear? I cannot find it in the definition Clause.

Sir Hugh Lucas-Tooth: It is subsection (6).

Mr. Robinson: I still do not think that covers it. I do not want to waste the time of the Committee on so small a matter, but I think this requires a little looking into.

Mr. Walker-Smith: Take the case of the hon. Gentleman himself as a vivid illustration.

Mr. Robinson: Please do.

Mr. Walker-Smith: Suppose he as an English Member were detained in Scotland or Northern Ireland, then the word would be inapposite if it were "managers", because the person who had to report would be the person in charge of the hospital, even though he was an English Member.

Mr. Albu: Who is the person in charge of a hospital in England?

Mr. Walker-Smith: The manager—the managers.

Mr. Albu: Does the singular cover the plural?

Mr. Walker-Smith: Yes. That is the Interpretation Act of 1889.

Mr. Robinson: I beg to ask leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

Motion made, and Question proposed, That the Clause stand part of the Bill.

Mr. Albu: I should like the Minister to give us a little explanation of the effect, particularly of subsection (4), of this Clause. Nobody wants to see a constituent disfranchised for a long period, but does this mean that the period in which a Member might be suffering a mental illness will be six months, before he can be declared unfit to hold his seat?

Mr. Walker-Smith: It is six months, as the hon. Gentleman says, but really there are the two considerations, the hope of cure and the disadvantage of disfranchisement. I think therefore it is a reasonable balance to strike.

Question put and agreed to.

Clause ordered to stand part of the Bill.

Clause 135.—(PROVISIONS AS TO CUSTODY, CONVEYANCE AND DETENTION.)

Mr. Thompson: I beg to move in page 88, line 10, to leave out from "place" to the first "be" in line 11 and to insert:

"or to be detained or kept in custody in a place of safety or at any other place to which he is taken under subsection (5) of section

sixty-five of this Act, shall, while being so conveyed, detained or kept, as the case may be".

The object of this Amendment is to ensure that a person may be deemed to be in legal custody not only when he is being conveyed from one place to another but also while under any of the provisions of the Bill he is in a place of safety or at some place, for instance, a court, to which he has been taken by an order of the Secretary of State under Clause 65 (5), which enables the Secretary of State, if he is satisfied that the attendance at any place in Great Britain of a patient who is subject to an order restricting discharge is desirable in the interests of justice, or for the purposes of any public inquiry, to direct him to be taken to that place. That is the point about this. It is to cover his additional movements while he is being moved about.

Amendment agreed to.

Further Amendment made: In page 88, line 17, at end insert:

(3) In this section "convey" includes any other expression denoting removal from one place to another.—[*Mr. R. Thompson.*]

Clause, as amended, ordered to stand part of the Bill.

Clause 136.—(PROTECTION FOR ACTS DONE IN PURSUANCE OF THIS ACT.)

12.30 p.m.

Dr. Summerskill: I beg to move, in page 88, line 28, after "Act" to insert:

"or in respect of the admission, care or discharge of any person suffering or alleged to be suffering from mental disorder to any hospital or mental nursing home otherwise than under the provisions of this Act".

I admit that this Amendment has been put down in the face of conflicting legal advice. I realise that lawyers and doctors can disagree. It is suggested by some eminent lawyers that this point is covered by the provisions of Clause 5, but as I consider the matter important, I thought it better that an Amendment should be put.

The intention is quite clear. Under the Bill a "medical practitioner"—that is a generic term—who has any professional relationship with a patient detained compulsorily, is fully protected, but it is not quite so clear that the doctor who has a professional relationship with the informal patient is equally protected. Many psychiatrists feel strongly about this.

I think the Committee will agree that the attitude of the informal patient may be entirely different after a month or two, or indeed, after his discharge from the hospital, from his attitude at the time when we gave permission for his admission to hospital. These changes of mind are unpredictable. It may be that a patient could charge the doctor. There are such cases about which the Minister knows. I am trying to remember the case, which doctors always quote in forensic medicine, which was finally taken to the House of Lords and where the patient won. Although most doctors are covered so far as finance is concerned by a medical defence organisation there are other imponderables, such as professional prestige. I think, therefore, that it should be embodied in the Bill and made quite clear that a professional man who is concerned either with a patient detained compulsorily or informally should be equally protected.

Mr. Thompson: The right hon. Lady has succinctly put the point which was originally referred to by the Royal Medico-Psychological Association. She wishes to extend the protection of this Clause to the whole range of informal patients. Since Clause 5 is only declaratory, informal patients are outside the Bill and in its present form the Clause would not apply unless compulsory powers were subsequently applied to them.

I cannot quite see how proceedings in respect of informal patients can be brought within the scope of this Clause without throwing it undesirably wide open as would be the effect were this Amendment accepted. When we are seeking to confer the kind of protection which the Clause confers regarding compulsory patients I think we must be in a position to do so in relation to statutory or other clearly definable proceedings, which is not possible with informal admissions. Again, as was said by my right hon. and learned Friend during our discussions on Clause 4, we deliberately used a very wide definition of mental disorder, so that to extend Clause 136 to all who come within that definition would affect the legal rights of a very large number of patients. As we all know, informal patients generally are to be treated so far as possible in the same way as patients who are physically ill, and for that reason it would be difficult to make any expansion in respect of

[MR. THOMPSON.]

legal proceedings by or on behalf of such patients.

I accept that there is a certain uneasiness on the part of the medical profession, and it has been well expressed by the right hon. Lady, but I doubt whether we shall run into real difficulties. If proceedings arise respecting informal patients, I think that they would probably be best dealt with under the general law. I do not think that we should create a very large class of informal patients who, in the words of the Amendment, are

"suffering or alleged to be suffering from mental disorder"

who, although not subject to any compulsory powers, would be on a different legal footing from the generality of patients in a hospital. That would be contrary to the spirit of the Bill, and the aim and intention to break down the barrier between patients who are mentally ill and those who are physically ill. In view of that, I hope that the right hon. Lady will consider this an Amendment which ought not to be pressed.

Dr. Summerskill: On Saturday I was at a large hospital and although I did not originally attach tremendous importance to this point, I was astonished when two superintendents, very experienced men who had been doing this work for many years, both drew my attention to the failure to give them any protection against what might be a new hazard in their sphere of work. I do not think we can dismiss this matter quite as lightly as the Parliamentary Secretary appears to suggest. We are anxious that the medical profession should grasp its opportunity and not be reluctant to deal with such patients because at the back of their minds doctors may think that if the case is not clear cut, there could be the most unpleasant repercussions for them. The fact that we have framed this Bill and adopted this new approach to mental illness makes clear that there are new hazards for doctors which did not exist before. We are now trying to persuade patients and doctors to adopt this informal approach, and I am afraid that we may jeopardise the success of this Bill unless we recognise that these important participants in that success should have a certain protection.

Mr. Walker-Smith: There is force in what the right hon. Lady says. On the other hand, this, in a sense, is the converse of the point we were previously discussing. If patients know that if they come in as informal patients they have less legal rights than the ordinary general patient, they may be deterred from coming to hospital. As my hon. Friend has said, there are real objections to extending this as widely as is proposed. However, this Amendment has not been on the Paper very long. We can go on thinking about it between now and Report in the light of the observations which have been made.

Dr. Summerskill: In those circumstances, I beg to ask leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

Clause ordered to stand part of the Bill.

Clauses 137, 138 and 139 ordered to stand part of the Bll.

Clause 140.—(GENERAL PROVISIONS AS TO REGULATIONS, ORDERS AND RULES.)

Mr. Robinson: I beg to move, in page 90, line 1, to leave out from "shall" to "House" in line 2, and to insert:

"not have effect until approved by a resolution of each".

The purpose of this Amendment is to make all regulations and statutory instruments made under this Bill subject to affirmative procedure in Parliament. This is, as has been said almost *ad nauseam*, an extremely complex Bill and I think, even more than usual with Bills of this complexity, is there power given to legislate by regulation. One does not wish to enter into a long dissertation about delegated legislation, but it is the fact that many of the regulations made under this Bill will be of great importance and affect the liberty of the subject. So I think it important that they should not merely be subject to the ordinary negative Prayer procedure in the House of Commons. I hope the Minister will agree to accept this Amendment. It will involve him and his successors in a certain amount of inconvenience in the early stages. Once this Measure is on the Statute Book, we shall expect that within twelve months or so there will be a number of important regulations made, but I believe that they should be brought before the House automatically and made subject to the affirmative procedure.

Mr. Walker-Smith : As the hon. Gentleman has said, the question of delegated legislation has been discussed over a long period. It so happens that it is a subject in which I have always taken a close interest during the time I have been a Member of Parliament. I do not think the hon. Gentleman can reasonably expect that all regulations, orders and rules made under this Bill should be the subject of affirmative resolution. From the Parliamentary point of view, that would be most inconvenient. It would lack a sense of balance because, although this is an important and complex Bill, there are many other important and complex Measures which go through the House of Commons, and we could not expect every order, rule or regulation to be subject to affirmative resolution. That would derogate from the workmanlike efficiency of the House of Commons. The negative procedure allows for a full exercise of Parliamentary control. It provides for the laying and the scrutiny and for discussion, and it provides the power of annulment. I think that furnishes sufficient power.

A good many of these matters would be quite unsuited to the affirmative resolution procedure: Clause 7, relating to the inspection of local health authorities' premises ; Clause 14, dealing with the registration of nursing homes, and prescribing such matters as the form of registration and the like ; Clause 16, relating to the inspection of mental nursing homes ; Clause 55, dealing with regulations for purposes of Part IV of the Bill and referring to things like the form of application and prescribing the manner in which such applications and notices should be proved and for regulating the service of such applications, and so on. These, essentially, are matters of administrative detail and we should not be justified in putting them automatically on the Order Paper of the House of Commons so that they would appear in the Orders of the Day making it necessary for a Minister to be present, and when the effect might be to postpone other important business which ought to come before the House. That would not be reasonable.

If the hon. Gentleman would care to look through the Bill, and if he discovers any particular matter which he thinks of special importance and which should be subject to affirmative resolution I should certainly be prepared to consider it. But we cannot accept this blanket proposal.

Mr. Blenkinsop : I think the suggestion of the right hon. and learned Gentleman is reasonable and I hope we may take advantage of it. There are certain regulations which I think we should lay before the House and to which the affirmative procedure should apply, especially those relating to local authorities and their future responsibilities. It might be useful if we had some discussion on the matter before Report, and were able to make some representations to the Minister.

Mr. Robinson : I do not dissent from almost all that the Minister has said. I wish only to point out that there is something to be said for asking on some occasions for more than one expects to receive. I gladly respond to his invitation to go through the Bill even more carefully than I have yet had time to do and to discuss with him, and to put down on Report appropriate Amendments regarding specific regulations which might be subject to affirmative resolution.

12.45 p.m.

In the light of what has been said, I beg to ask leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

Clause ordered to stand part of the Bill.

Clause 141 ordered to stand part of the Bill.

Clause 142.—(INTERPRETATION.)

Amendments made : In page 90, line 27, leave out " in relation to a hospital ".

In page 91, line 14, at end insert:

(4) In relation to a person who is liable to be detained or subject to guardianship by virtue of an order or direction under Part V of this Act, any reference in this Act to any enactment contained in Part IV of this Act shall be construed as a reference to that enactment as it applies to that person by virtue of the said Part V.—[*Mr. Walker-Smith.*]

Mr. Walker-Smith : I beg to move, in page 91, line 20, to leave out subsection (5).

This Amendment and my next Amendment, in Clause 146, to leave out subsection (2) are both paving Amendments for my new Clause (Commencement).

Amendment agreed to.

Motion made, and Question proposed, That the Clause, as amended, stand part of the Bill.

Mr. Blenkinsop: I would remind the Minister that in connection with the definition of a mental welfare officer there was an undertaking that at some point, either now or on Report, there would be an opportunity to see whether any firm undertaking could be laid down and expressed in the Bill. I hope the Minister has that point in mind.

Mr. Walker-Smith: Yes.

Question put and agreed to.

Clause, as amended, ordered to stand part of the Bill.

Clause 143.—(TRANSITIONAL PROVISIONS.)

Motion made, and Question proposed, That the Clause stand part of the Bill.

Mr. Robinson: Would the Minister give a word of explanation of subsection 2? As I understand it, the Clause validates the detention of those persons who were detained as being "found neglected" under the old Mental Deficiency Act, and where the grounds for detention were by recent court action found to be either insufficient or at any rate in doubt. Why has this procedure been adopted as a sort of blanket validation of these cases rather than the ordinary procedures for compulsory detention where appropriate? As I understand it, all these cases coming within the ambit of that subsection have been reviewed, and a number of cases have been either converted to informal or released.

Mr. Dodds: Because of my recent experiences I am concerned about this subsection. Although it looks innocent enough and the wording seems safe, it can have an effect on a large number of people who are victims of appalling errors made under our mental laws. Fears arise because of cases like that of Kathleen Rutty who was "found neglected". In mentioning the number of people concerned, I should like to compliment the Board of Control, because after this case it sent out a circular to the Superintendents of mental deficiency hospitals asking for identical cases. The large number of 5,035 was reported.

One must bear in mind that most of the older institutions were virtually workhouses. Until the passage of the Act of 1913 these were handed over to the county councils. From some of the cases I have in mind it seems that they were handed over to the county councils in order to legalise detentions and certification as "found neglected". There are a number of such cases, but in one case a chappie having been found neglected by that process was taken back to the place where he had been for eleven years. This was purely a device which the High Court made clear was illegal.

I am raising this point because the last information I received from the Minister on 8th December, 1958, was that there were 3,078 persons still detained because they were unfit for discharge or had nowhere else to go. That is the point. Many of them are detained, not because they are mentally defectives, but because we have failed to provide some other place in which these unfortunate people could live outside mental hospitals.

What it is being sought to do is to legalise the remaining illegal detentions. It is a deplorable state of affairs. What is required is that under the Ministry of Labour there should be rehabilitation units where these people who have suffered so grievously can be brought back into the community.

Mr. Walker-Smith: The hon. Gentleman was right to raise the point on this Clause which deals with the position of patients who are "found neglected" under Section 2 (1, *b*) of the Mental Deficiency Act of 1913 on grounds which were subsequently brought into question. As I think the Committee knows from the passing of the Act of 1913 until 1956 those administering the Act took a wide view of the expression "found neglected" in this context, interpreting it as meaning people who were in need of care and supervision appropriate to their mental condition, which they ought to have but did not have where they were.

Mr. Dodds: The right hon. and learned Gentleman says it depends on the mental condition of the person. It does not. Many of these people were in workhouses because they were poor. They were people who were unfortunate enough to be in workhouses and afterwards were retained because they were "found

neglected". When some of them did get out they were able to go to work straight away. It is a device.

Mr. Walker-Smith: No. I would not accept that. It is true that a lot of patients came from Poor Law institutions. They were admitted there as destitute people and if they were later found to be mentally defective they were transferred to the mental deficiency institution on the grounds that they were "found neglected", neglected in the sense of not having the requisite mental treatment.

The Rutty judgment found that that was a wrong interpretation because "found neglected" had to be construed in an exclusively physical connotation, which meant that if one were in a Poor Law institution, or a Dr. Barnardo's home, obviously one would not be "found neglected" in the purely physical connotation.

Mr. Dodds: The Minister says that when they were "found neglected" they were transferred to mental hospitals. Darenth Park Hospital at Dartford was a Poor Law institution. Under the 1913 Act it was taken over by the County Council. The people were not transferred to any other hospital. They came to County Hall, were certified as mental defectives "found neglected" and taken back to Darenth, where they are today.

Mr. Walker-Smith: I was dealing with the general position in regard to how this problem has arisen. In the previous interpretation it was possible to apply these procedures but the Rutty judgment confined the interpretation to physical neglect. The Rutty judgment was a judgment in the divisional court but because it was a case of *habeas corpus* it was not subject to appeal. It is, however, right to say that in two subsequent cases the Court of Appeal has queried the rightness of that judgment; in particular, in the Richardson case, to which I drew the attention of the hon. Gentleman on a previous occasion, and another unreported case.

There were about 5,000 patients and the Board of Control set about reviewing these cases. With a few exceptions it discharged all those already on licence to the community, and a further number of low grade patients were discharged and remained informally. There remains a figure of 2,700-odd patients either too mentally disordered to leave—and these provide the majority—or there is nowhere suitable for them to go. None of these 2,700 patients has asked to be allowed to go.

That is the position, and as the Committee knows, periods for the original orders under the 1913 Act are one year, another year, five years, and successive periods of five years thereafter. The procedure is that, not more than two months before an order is due to expire, examinations of two types are conducted. There is an examination by the medical officer of the institution, or other responsible medical officer, and examination by visitors appointed by the Justices. From those two examinations two reports arise. First, a special report by the visitors to the Board of Control stating whether in their opinion the patient is still a proper person to be detained in his own interest. Secondly, a special medical report by the medical officer to the Board as to the patient's mental and bodily condition and a certificate stating whether or not the patient is still a proper person to be detained in his own interest. On receipt of the reports the Board considers them and any medical reports submitted by the patient or his parent or guardian. The Board considers all these things and decides whether to make a continuation order.

About three-fifths of the patients we are speaking of have come up for renewal since the date of the Rutty case. These are the patients referred to in subsection (1). Subsection (2) provides a special procedure for those patients who have not had a detailed examination. Here we say that the orders shall be deemed to be valid only if the Board, after considering a special report from the doctor responsible for the case and the treatment, have determined that the patient is not a proper person to be discharged. That means that in this residual category of cases the Board of Control must review each case individually and have special medical certificates. It is only after that has been done that the orders will be deemed to be valid and the patient will come under the ordinary procedure.

Mr. Dodds: I appreciate that. These people are illegally held, or could be deemed to be illegally held.

Mr. Walker-Smith: Some of them would be discharged but for the fact that they have nowhere to go.

Mr. Dodds: If the Board of Control is satisfied that they are suitable persons for going out, will they have a legal certificate purely because there is nowhere for them to go?

Mr. Walker-Smith: They could be discharged and remain informally until suitable arrangements were made.

Question put and agreed to.

Clause ordered to stand part of the Bill.

Clauses 144 and 145 ordered to stand part of the Bill.

Clause 146.—(SHORT TITLE, COMMENCEMENT AND EXTENT.)

Amendments made: In page 92, line 32, leave out subsection (2).

In line 35, leave out from beginning to "does" and insert:

"This Act, except so far as it relates to the Parliament of the United Kingdom or otherwise refers to Scotland or Northern Ireland."—[*Mr. Walker-Smith.*]

Clause, as amended, ordered to stand part of the Bill.

It being One o'clock, The CHAIRMAN *adjourned the Committee without Question put, pursuant to the Standing Order.*

Committee adjourned until Tuesday, 21st April, 1959, at half-past Ten o'clock.

THE FOLLOWING MEMBERS ATTENDED THE COMMITTEE:

Storey, Mr. (*Chairman*)
Albu, Mr.
Beamish, Col.
Blenkinsop, Mr.
Braddock, Mrs.
Braithwaite, Sir A.
Broughton, Dr.
Channon, Mr.
Corbet, Mrs.
Dodds, Mr.
Griffiths, Mr. W.
Hastings, Mr.
Holmes, Mr.
Hynd, Mr. J.
Jennings, Mr.
Johnson, Dr. D.
Kerr, Sir H.
Kirk, Mr.
Langford-Holt, Mr.
Lindsay, Mr. J.
Lucas-Tooth, Sir H.
Mallalieu, Mr. E. L.
Mathew, Mr.
Moyle, Mr.
Renton, Mr.
Robinson, Mr. K.
Summerskill, Dr.
Thompson, Mr. R.
Vickers, Miss
Walker-Smith, Mr.
Williams, The Rev. Ll.